



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,738	12/17/2003	Tal Davidson	P-5452-US	5611
49443 7590 10/08/2008 Pearl Cohen Zedek Latzer, LLP 1500 Broadway 12th Floor New York, NY 10036				
EXAMINER				
LEACH, CRYSTAL I				
ART UNIT		PAPER NUMBER		
3737				
MAIL DATE		DELIVERY MODE		
10/08/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/736,738

**Applicant(s)**

DAVIDSON ET AL.

**Examiner**

CRYSTAL I. LEACH

**Art Unit**

3737

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 March 2007.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-13 and 19-28 is/are rejected.  
7) ☒ Claim(s) 14-18 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 17 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

***Response to Arguments***

1. Applicant's arguments with respect to claim 1-28 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 9-12, 19-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishioka (5,967,968).
4. Nishioka teaches a method for capturing in-vivo images, the method comprising: capturing an in-vivo image; and overlaying a scale on the in-vivo image (see col. 3, l. 50 – col. 5, l. 7). Examiner noted that scale referred to in Nishioka is a grid (see col. 4, l. 50-62). It would be obvious to one of ordinary skill in the art that a grid is commonly considered to be a network of lines that cross each other to form a series of squares or rectangles. Figure 2a of Nishioka illustrates an example of a computer generated electronic grid. It would be obvious to one of ordinary skill in the art that the grid utilized by Nishioka could be in the form of one that comprises a network of lines that cross each other to form a series of squares or rectangles or could be substituted for a grid that comprises a network of lines that cross each other to form a series of squares or rectangles. Nishioka teaches comprising displaying the image (see figure 2a). Nishioka teaches wherein the step of overlaying the scale is performed at a processing

device external to an in-vivo device (see col. 4, l. 50-62). Nishioka teaches wherein the scale comprises a set of lines (see fig. 2a and col. 4, l. 50-62, "grid"). Nishioka teaches comprising providing a size estimate of an object contained in an image (see col. 1, l. 6-8). Nishioka teaches receiving a first point in said in-vivo image and a second point in said in-vivo image (the object being imaged is considered to be one "point" and the selected graduation on the measurement probe is another "point"), calculating a distance between said first point and said second point and comparing an object in the image to the scale (see col. 3, l. 50 – col. 4, l. 62).

5. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishioka (5,967,968) in view of Tsujiuchi et al. (4,895,431).

Nishioka does not explicitly teach that the image is captured with a distortion effect that is compensated for. However, given that the lens (22) in Nishioka is hemispherical (see fig. 1), it would be obvious to one of ordinary skill in the art that there would exist some distortion effects in the produced image and that means would be provided to correct the image.

Tsujiuchi et al. teach a distortion corrector (93) capable of correcting distortions of an image during image processing (see col. 9, l. 38-49).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include a means for correcting image distortion in the invention of Nishioka in light of the teachings of Tsujiuchi et al., in order to enhance the utility of the device.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zobel (4,702,229).

Zobel teaches an endoscope capable of producing images of an image plane, wherein a transparent piece (see "eyepiece" in Zobel) includes a scale. Zobel does not teach that the scale is non-linear. It would be obvious to one of ordinary skill in the art to substitute the scale utilized in Zobel for a different type of measurement scale, including a non-linear scale, to arrive at the predictable result of attaining a measurement of an object to be viewed or imaged.

***Allowable Subject Matter***

7. Claims 14-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CRYSTAL I. LEACH whose telephone number is (571)272-5211. The examiner can normally be reached on Monday through Friday, 8 am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRIAN CASLER/  
Supervisory Patent Examiner, Art  
Unit 3737

/Crystal I Leach/  
Examiner, Art Unit 3737